

# EXHIBIT A

1  
2  
3  
4  
5  
6 **UNITED STATES DISTRICT COURT**  
7 **WESTERN DISTRICT OF WASHINGTON**  
8 **AT SEATTLE**

9 FEDERAL TRADE COMMISSION, *et al.*,

10 Plaintiffs,

11 v.

12 AMAZON.COM, INC., a corporation,

13 Defendant.  
14

**CASE NO.: 2:23-cv-01495-JHC**

**[PROPOSED] ORDER  
REGARDING REMOTE  
DEPOSITIONS**

15 Plaintiffs Federal Trade Commission and the states and territories of New York,  
16 Connecticut, New Hampshire, Oklahoma, Pennsylvania, Delaware, Maine, Maryland,  
17 Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Puerto Rico,  
18 Rhode Island, Vermont, and Wisconsin, acting by and through their respective Attorneys  
19 General (“Plaintiffs”) having filed a Joint Motion for an Order Regarding Remote Depositions  
20 (“Motion”), and the Court having considered all papers filed in support and in opposition of the  
21 Motion, including all filings and memoranda of law concerning this matter, the Motion is  
22 GRANTED. Accordingly, the Court orders the following protocol regarding depositions in this  
23 matter:  
24

**A. General Principles**

The Federal Rules of Civil Procedure, Local Civil Rules of the Western District of Washington, this Court’s Order re Deposition Limits (Dkt. #166), and this Court’s other orders, rules, and procedures (collectively, the “Rules”), shall govern depositions in this action except where the provisions contained herein alter or supplement the Rules.

**B. Deposition Format**

The depositions of witnesses in this case shall be conducted by a remote videoconference platform at the election of the noticing party unless otherwise agreed by all parties and the deponent. If a non-party has been cross-noticed for deposition by the parties and the parties disagree about whether to proceed by virtual deposition, the preference of the deponent shall prevail. For any deposition that proceeds in person, a videoconference platform will be available for parties who chose to participate remotely.

**C. Procedures Applicable to Virtual Depositions**

**1. Place of Examination**

As used in Fed. R. Civ. P. 28(a)(1)(A), the “place of examination” is the location of the deponent.

**2. Other Recording**

No participant other than the court-reporting agency and videographer (after appropriate notice) may record by video, photograph, or audio any of the proceedings. This shall include recording using any form of virtual transmitting device, computer recording device, laptops, camera, and personal device, including smart phones, tablets, iPads, Androids, iPhones, or other PDAs. Nothing in this provision prevents or limits the taking of notes by those identified on the record.

**3. Conduct of Deponent**

While on the record the deponent will not use any communication device other than those to facilitate the deposition. While on the record, the deponent will not privately confer with anyone between a question and an answer except for the purpose of determining the existence and questions of privilege. This Order does not govern the conduct of anyone while not on the record.

**4. Contact with the Deponent During a Virtual Deposition**

While on the record, no one will communicate with the deponent outside of the video/audio stream. This includes, but is not limited to, instant messaging, text messaging, or any equivalent. In the event any such communications occur, such communications are discoverable.

**5. Identification of Individuals in Attendance**

Every person attending the deposition shall be identified on the record at the commencement of the deposition or upon later entry permitted by the court reporter. Persons attending by telephone must identify themselves by name and by telephone number. Under no circumstances may persons attend the deposition virtually in any manner without identifying themselves on the record at the commencement of the deposition or when admitted later by the court reporter.

**6. Conduct by Participants Appearing Virtually**

In addition to the provisions set forth above, each participant should attend from a quiet location. All attendees other than the deponent, court reporter, deposing attorney, and objecting attorney will set their audio connection to mute to avoid unintentional noise.

1           **7. Use of Deposition Testimony**

2           Testimony given during a virtual deposition may be used to the same extent that in-  
3 person deposition testimony may be used consistent with the Rules. The Parties expressly waive  
4 all objections to the admissibility of any testimony given during a virtual or hybrid deposition  
5 based solely on the fact that it was given at a virtual or hybrid deposition. Testimony given  
6 during a virtual deposition, including both the transcript and video record, if any, may be used at  
7 a trial, at hearings, in motions, or in other modes in these proceedings to the same extent that in-  
8 person deposition testimony may be used at trial, at hearings, in motions, or in other modes in  
9 this proceeding.

10           **8. Objections**

11           Any objections to proceeding with a virtual deposition shall be raised promptly after  
12 receipt of the deposition notice. In the case of a non-party witness that has been subpoenaed prior  
13 to the entry of this Order, such objections shall be raised promptly after receipt of this Order. In  
14 the event that one or more such objections are raised, the parties, and any non-party witness, if  
15 applicable, shall meet and confer to resolve the objection(s) before seeking relief from the Court,  
16 in the case of a party, or, in the case of a nonparty, before the court where compliance is required  
17 pursuant to Fed. R. Civ. P. 45(d). If the parties and the non-party witness (if applicable) cannot  
18 resolve the dispute, then the party or non-party seeking an in-person deposition shall move the  
19 Court for good cause to do so and the deposition shall proceed as noticed absent an order from  
20 the Court.

21           **9. Court Reporter and Videographer**

22           A court reporter may administer an oath concerning a virtual deposition. The Parties  
23 shall not challenge the validity of any oath administered by the court reporter, even if the court  
24

1 reporter is not a notary public in the state where the deponent resides. In accordance with  
2 Federal Rules of Civil Procedure, the court reporter or videographer (if noticed) may participate  
3 in the virtual deposition, and that the deposition will be deemed to have been conducted “before”  
4 that officer, even though the officer is not physically present with the deponent, so long as that  
5 officer is able to identify the deponent. The court reporter will at all times have access to the  
6 same interface as the witness.

#### 7 **10. Physical Presence with Deponent**

8 For virtual depositions, the only people permitted in the same room as the deponent are  
9 attorneys representing the deponent. The deponent and each attorney will each have their own  
10 computer with camera, and individual or shared audio feeds via microphone or telephone.

#### 11 **11. Technology Requirements**

12 All virtual depositions will be stenographically recorded by a court reporter with real-  
13 time feed capabilities. The deponent, the attorney defending the deponent, and the attorney for  
14 any Party questioning the deponent must have a webcam-equipped device (such as a desktop,  
15 laptop, or tablet), and a device with audio-capabilities or access to a telephone for calling into the  
16 deposition, and will allow themselves to be seen and heard at all times while on the record.  
17 Unless directed otherwise by the court reporter, all other attendees will turn video off such that  
18 their names appear instead of their images (but they may view the video feed of the deposition).  
19 Before proceeding with a remote deposition, the deponent or their counsel shall confirm that the  
20 deponent has access to the required equipment on the day of the deposition and that any  
21 equipment checks or tests (as instructed by the deposition services vendor) have been completed  
22 prior to the deposition.

**12. Exhibits**

All virtual depositions shall be conducted using a technology platform that allows for the electronic marking and sharing of exhibits. The technology platform for exhibits should allow the deponent to increase the size of the exhibit and scroll through a multi-page exhibit so that the deponent may review the entire document. Alternatively, at the discretion of any Party questioning the deponent, such Party may transmit each exhibit, either in advance of the deposition or as each exhibit is introduced, to the court reporter, the deponent, the attorney defending the deponent, and any other counsel appearing on the record at the deposition, via email or file-sharing link. If the exhibits are transmitted in advance of the deposition, any person receiving said exhibits agrees not to open or review the exhibits except at the direction of the attorney questioning the witness. Any copies of exhibits electronically downloaded but not used at the deposition are courtesy copies and shall be destroyed immediately after the conclusion of the virtual deposition.

**13. Disruptions.**

In the event the video feed for the deponent, the attorney defending the deponent, the attorney questioning the deponent, is interrupted or otherwise becomes hidden from view, the deposition will be suspended. The deposition will resume only when all video streams have been restored. If the video feed of the attorney defending the deponent or the attorney questioning the deponent is interrupted, that attorney may request that any portion of the virtual deposition that was transcribed while they were disconnected be re-read, and that they be provided an opportunity to object to any questions or answers that occurred in their absence. Disruptions due to video streaming, phone line interruption, or other technical problems shall not be counted against record time. Should technical issues materially interfere with the parties' ability to take

1 any deposition pursuant to this Order on the scheduled date and such technical issues cannot be  
2 remedied in a timely manner, the Parties shall meet, confer, and reasonably cooperate with one  
3 another and the witness to reschedule the deposition.

4 **D. Other Provisions**

5 **14. Costs.**

6 Noticing counsel is responsible for retaining, and covering the cost of the court reporter,  
7 videographer, and any other vendor retained to assist with any deposition. For any non-party  
8 depositions where the Parties have noticed a deposition for the same day, the Parties will meet  
9 and confer regarding which vendor(s) to use. Plaintiffs and Amazon will split the costs evenly  
10 for the deposition services that both sides request. Each Party will bear its own costs for copies  
11 of transcripts, copies of video recordings of any deposition, and any other unique services  
12 obtained by a Party.

13 **15. Notice to Non-Parties.**

14 This Order shall be provided to any non-party witness or such non-party witness's  
15 counsel concurrently with the service of any subpoena that requests a virtual deposition.

16 **16. Modifications.**

17 The parties may modify the provisions of this Order as they apply to an individual  
18 deposition by the agreement of all parties.



**ORDER**

IT IS SO ORDERED

Dated this \_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_  
JOHN H. CHUN  
UNITED STATES DISTRICT JUDGE

*Presented by:*

s/ Thomas J. Miller

SUSAN A. MUSSER (DC Bar # 1531486)  
EDWARD H. TAKASHIMA (DC Bar # 1001641)  
THOMAS J. MILLER (PA Bar # 316587)  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Tel.: (202) 326-2122 (Musser)  
(202) 326-2464 (Takashima)  
Email: smusser@ftc.gov  
etakashima@ftc.gov  
tmiller2@ftc.gov

*Attorneys for Plaintiff Federal Trade Commission*

s/ Michael Jo

Michael Jo (admitted *pro hac vice*)  
Assistant Attorney General, Antitrust Bureau  
New York State Office of the Attorney  
General  
28 Liberty Street  
New York, NY 10005  
Telephone: (212) 416-6537  
Email: Michael.Jo@ag.ny.gov  
*Counsel for Plaintiff State of New York*

s/ Rahul A. Darwar

Rahul A. Darwar (admitted *pro hac vice*)  
Assistant Attorney General  
Office of the Attorney General of Connecticut  
165 Capitol Avenue  
Hartford, CT 06016  
Telephone: (860) 808-5030  
Email: Rahul.Darwar@ct.gov  
*Counsel for Plaintiff State of Connecticut*

s/ Alexandra C. Sosnowski

Alexandra C. Sosnowski (admitted *pro hac vice*)  
Assistant Attorney General  
Consumer Protection and Antitrust Bureau  
New Hampshire Department of Justice  
Office of the Attorney General  
One Granite Place South  
Concord, NH 03301  
Telephone: (603) 271-2678  
Email: Alexandra.c.sosnowski@doj.nh.gov  
*Counsel for Plaintiff State of New Hampshire*

s/ Robert J. Carlson

Robert J. Carlson (admitted *pro hac vice*)  
Assistant Attorney General  
Consumer Protection Unit  
Office of the Oklahoma Attorney General  
15 West 6th Street, Suite 1000  
Tulsa, OK 74119  
Telephone: (918) 581-2885  
Email: robert.carlson@oag.ok.gov  
*Counsel for Plaintiff State of Oklahoma*

s/ Timothy D. Smith

Timothy D. Smith, WSBA No. 44583  
Senior Assistant Attorney General  
Antitrust and False Claims Unit  
Oregon Department of Justice  
100 SW Market St  
Portland, OR 97201  
Telephone: (503) 934-4400  
Email: tim.smith@doj.state.or.us  
*Counsel for Plaintiff State of Oregon*

s/ Jennifer A. Thomson

Jennifer A. Thomson (admitted *pro hac vice*)  
Senior Deputy Attorney General  
Pennsylvania Office of Attorney General  
Strawberry Square, 14th Floor  
Harrisburg, PA 17120  
Telephone: (717) 787-4530  
Email: jthomson@attorneygeneral.gov  
*Counsel for Plaintiff Commonwealth of Pennsylvania*

s/ Michael A. Undorf

Michael A. Undorf (admitted *pro hac vice*)  
Deputy Attorney General  
Delaware Department of Justice  
820 N. French St., 5th Floor  
Wilmington, DE 19801  
Telephone: (302) 683-8816  
Email: michael.undorf@delaware.gov  
*Counsel for Plaintiff State of Delaware*

s/ Christina M. Moylan

Christina M. Moylan (admitted *pro hac vice*)  
Assistant Attorney General  
Chief, Consumer Protection Division  
Office of the Maine Attorney General  
6 State House Station  
Augusta, ME 04333-0006  
Telephone: (207) 626-8800  
Email: christina.moylan@maine.gov  
*Counsel for Plaintiff State of Maine*

s/ Gary Honick

Gary Honick (admitted *pro hac vice*)  
Assistant Attorney General  
Deputy Chief, Antitrust Division  
Office of the Maryland Attorney General  
200 St. Paul Place  
Baltimore, MD 21202  
Telephone: (410) 576-6474  
Email: Ghonick@oag.state.md.us  
*Counsel for Plaintiff State of Maryland*

s/ Katherine W. Krems

Katherine W. Krems (admitted *pro hac vice*)  
Assistant Attorney General, Antitrust  
Division  
Office of the Massachusetts Attorney General  
One Ashburton Place, 18th Floor  
Boston, MA 02108  
Telephone: (617) 963-2189  
Email: katherine.krems@mass.gov  
*Counsel for Plaintiff Commonwealth of Massachusetts*

s/ Scott A. Mertens

Scott A. Mertens (admitted *pro hac vice*)  
Assistant Attorney General  
Michigan Department of Attorney General  
525 West Ottawa Street  
Lansing, MI 48933  
Telephone: (517) 335-7622  
Email: MertensS@michigan.gov  
*Counsel for Plaintiff State of Michigan*

s/ Zach Biesanz

Zach Biesanz (admitted *pro hac vice*)  
Senior Enforcement Counsel  
Office of the Minnesota Attorney General  
445 Minnesota Street, Suite 1400  
Saint Paul, MN 55101  
Telephone: (651) 757-1257  
Email: zach.biesanz@ag.state.mn.us  
*Counsel for Plaintiff State of Minnesota*

s/ Lucas J. Tucker

Lucas J. Tucker (admitted *pro hac vice*)  
Senior Deputy Attorney General  
Office of the Nevada Attorney General  
100 N. Carson St.  
Carson City, NV 89701  
Telephone: (775) 684-1100  
Email: LTucker@ag.nv.gov  
*Counsel for Plaintiff State of Nevada*

s/ Andrew Esoldi

Andrew Esoldi (admitted *pro hac vice*)  
Deputy Attorney General  
New Jersey Office of the Attorney General  
124 Halsey Street, 5th Floor  
Newark, NJ 07101  
Telephone: (973) 648-7819  
Email: andrew.esoldi@law.njoag.gov  
*Counsel for Plaintiff State of New Jersey*

s/ Jeffrey Herrera

Jeffrey Herrera (admitted *pro hac vice*)  
Assistant Attorney General  
New Mexico Office of the Attorney General  
408 Galisteo St.  
Santa Fe, NM 87501  
Telephone: (505) 490-4878  
Email: jherrera@nmag.gov  
*Counsel for Plaintiff State of New Mexico*

s/ Zulma Carrasquillo Almena

Zulma Carrasquillo Almena (admitted *pro hac vice*)  
Puerto Rico Department of Justice  
P.O. Box 9020192  
San Juan, PR 00902-0192  
Telephone: (787) 721-2900, Ext. 1211  
Email: zcarrasquillo@justicia.pr.gov  
*Counsel for Plaintiff Commonwealth of Puerto Rico*

s/ Stephen N. Provazza  
Stephen N. Provazza (admitted *pro hac vice*)  
Special Assistant Attorney General  
Chief, Consumer and Economic Justice Unit  
Department of the Attorney General  
150 South Main Street  
Providence, RI 02903  
Telephone: (401) 274-4400  
Email: sprovazza@riag.ri.gov  
*Counsel for Plaintiff State of Rhode Island*

s/ Sarah L. J. Aceves  
Sarah L. J. Aceves (admitted *pro hac vice*)  
Assistant Attorney General  
Public Protection Division  
Vermont Attorney General's Office  
109 State Street  
Montpelier, VT 05609  
Telephone: (802) 828-3170  
Email: sarah.aceves@vermont.gov  
*Counsel for Plaintiff State of Vermont*

s/ Laura E. McFarlane  
Laura E. McFarlane (admitted *pro hac vice*)  
Assistant Attorney General  
Wisconsin Department of Justice  
Post Office Box 7857  
Madison, WI 53707-7857  
Telephone: (608) 266-8911  
Email: mcfarlanele@doj.state.wi.us  
*Counsel for Plaintiff State of Wisconsin*